

Remarks

Applicant respectfully requests reconsideration of the present U.S. Patent application as amended herein. Claims 1, 6, 11, 16, 20, 24 have been amended. Claims 2, 3, 7, 8, 12, 13, 17 and 21 have been canceled. No claims have been added. Thus, claims 1, 4-6, 9-11, 14-16, 18-20 and 22-28 are pending.

Claim Rejections – 35 U.S.C. § 112, Second Paragraph

Claims 17, 19, 21, 23 and 24 were rejected a failing to particularly point out and distinctly claim the subject matter of the invention. Claims 17 and 21 have been canceled. Applicants submit that the phrases cited in the Office Action as lacking antecedent basis in claims 19, 23 and 24 do not lack antecedent basis. Therefore, Applicants request that the objection to the specification be withdrawn.

Claim Rejections - 35 U.S.C. § 102(b)

Claims 1, 2, 4-7, 9-12, 14-18, 20-22 and 24-27 were rejected as being anticipated by U.S. Patent No. 6,009,106 issued to Rustad (*Rustad*). For at least the reasons set forth below, Applicant submits that claims 1, 2, 4-7, 9-12, 14-18, 20-22 and 24-27 are not anticipated by *Rustad*.

Independent claims 1, 6, 11, 16, 20 and 24 each recite transmitting data according to an asynchronous digital subscriber line (ADSL) protocol. Each of the remaining claims rejected as being anticipated by *Rustad* depends from one of claims 1, 6, 11, 16, 20 and 24. *Rustad* does not disclose transmitting data according to an ADSL protocol. Applicants submit that there are additional differences between the claimed invention and

the teachings of *Rustad*. However, because the claims are rejected as being anticipated, these further differences are not discussed herein. Therefore, *Rustad* does not anticipate the invention as claimed in claims 1, 2, 4-7, 9-12, 14-18, 20-22 and 24-27.

Claim Rejections - 35 U.S.C. § 103(a)

Claims 3, 8 and 13 were rejected as being unpatentable over *Rustad*. Claims 3, 8 and 13 have been canceled. Therefore, the rejection of claims 3, 8 and 13 as being unpatentable over *Rustad* is moot. Applicants submit, however, that while *Rustad* does disclose DSL protocols, the DSL protocols disclosed are symmetric. Further, *Rustad* discloses that the transmitting and receiving circuitry is the same. Therefore, the teachings of *Rustad* cannot be functional when used with an asynchronous DSL protocol.

Applicants further object to the Official Notice taken in the Office Action. While ADSL is known in the art, ADSL is not interchangeable with the DSL variants disclosed by *Rustad*. Therefore, it would not have been obvious to us an ADSL protocol with the circuitry of *Rustad*.

Claims 19, 23 and 28 were rejected as being unpatentable over *Rustad* in view of U.S. Patent No. 6,466,586 issued to Darveau, et al (*Darveau*). Claims 19, 23 and 28 depend from one of the independent claims discussed above. *Darveau* is not cited to, nor does *Darveau* cure the deficiencies of *Rustad* with respect to ADSL protocols. Therefore, no combination of *Rustad* and *Darveau* can teach or suggest the invention as claimed in claims 19, 23 and 28.



Conclusion

For at least the foregoing reasons, Applicant submits that the rejections have been overcome. Therefore, claims 1-28 are in condition for allowance and such action is earnestly solicited. The Examiner is respectfully requested to contact the undersigned by telephone if such contact would further the examination of the present application.

Please charge any shortages and credit any overcharges to our Deposit Account number 02-2666.

Respectfully submitted,
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN, LLP

Date: July 2, 2004

Paul A. Mendousa
Paul A. Mendousa
Attorney for Applicant
Reg. No. 42,879

12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1026
(310) 684-6200

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313 on:

2 July 2004
Date of Deposit

SOH
Name of Person Mailing Correspondence

SOH 7-2-04
Signature Date